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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,006	09/20/2006	Quentin Baillia-Prel	0579-1128	1367
<div>466 7590 03/18/2011</div> <div>YOUNG & THOMPSON 209 Madison Street Suite 500 Alexandria, VA 22314</div>				
<div>EXAMINER</div> <div>LUGO, CARLOS</div>				
<div>ART UNIT PAPER NUMBER</div> <div>3673</div>				
<div>NOTIFICATION DATE DELIVERY MODE</div> <div>03/18/2011 ELECTRONIC</div>				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary**Application No.**

10/588,006

Applicant(s)

BAILLIA-PREL, QUENTIN

Examiner

CARLOS LUGO

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,9-12,16-28 and 30-35 is/are pending in the application.
- 4a) Of the above claim(s) 12 and 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,9-11,22-28 and 30-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No.(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on December 15, 2010.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 1, 4, 12, 16-21 and 33-35 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 34 require a "bolt operating member". However, the claim fails to disclose any bolt so as to be operated by this member.

At the moment, the term "bolt operating" is just a label, with no patentable weight, if there is no bolt claimed. Further, the invention is drawn to a panic bar assembly that moves between a working position and a non working position. However, without the limitations of claim 25, the assembly as claimed in claim 1 will not do any function with respect to the door (working position will not perform anything with respect to the door).

At the instant, the invention is drawn to a panic bar assembly that is fixed to a door that will move between two positions, performing no function with respect to the door.

By establishing that the bolt operating member is capable or adapted to move a bolt on the door, and that in the working position, the assembly actually unlock the door, the current assembly now will have a meaning or function. Correction is required.

As to claims 33 and 35, it is unclear if the stop portion claimed in those claims is the

same or different than the one already claimed in claim 1. Correction is required.

As to claims 12, and 16-21, the claims are directed to a non elected species. Therefore, the claims are not considered for examination.

As to claim 4, it is unclear how the fixing part has a part of the profiled section and further that extend in the same direction as the profiled section.

As clearly shown in the drawing, all the parts of the fixing part (like 36, 37, and 31) extend toward the profiled section. A broad interpretation will be given. Correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-5, 9, 10, 25, 27, 28, 30-35 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 4,986,583 to Campbell et al (Campbell).

Campbell discloses a panic bar assembly that comprises a fixed part (38 and 48); a “bolt operating” member (35); and a crash bar (42).

The bar has a member of longitudinal extending profiled section (body of 42) that is mounted to the fixed part to pivot about a longitudinal axis (40) between an idle position (figure 6) remote from a door and a working position (shadow lines figure 6) closed to the door. The bar is capable of activating the bolt operating member to perform some kind of function.

The fixed part has an abutment configured to cooperate with a stop on the bar (attachment #1) to delimit a range of pivot motion.

The profiled section comprises a maneuvering portion (painted surface, attachment #2) between the pivot and the stop portion.

6. Claims 1, 4, 22-28, 30, 31 and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat No US Pat No 4,312,528 to Hall et al (Hall).

Hall discloses a panic bar assembly that comprises a fixing part (31) having an abutment (ends of 38); a bolt operating member (45 and 46) adapted to operate a bolt; and a crash bar.

The crash bar comprises a longitudinal extending profiled section (32) pivotally attached to the fixing part along a longitudinal axis (at 36), a stop (37), a maneuvering portion (48) positioned between the stop and the longitudinal axis, and lateral shells (50).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 9 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,312,528 to Hall et al (Hall).

As to claim 3, Hall fails to disclose that the longitudinal axis is located at a lower section, and the stop at an upper section. Hall discloses the opposite.

It would have been obvious to one having ordinary skill in the art at the time the

invention was made to provide the stop at an upper section and the axis at a lower section, since the reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration within the skill of the art.

As to claim 9, Hall fails to disclose that the stop is in the form of a rim. Hall discloses that the stop (37) is a pin that is secured in a slotted tube portion.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the stop described by Hall, as a rim shape, since a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art.

As to claim 32, Hall fails to disclose that the maneuvering portion is curved. Hall illustrates that the maneuvering portion (48) is plane.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the maneuvering portion described by Hall, with a curved shape, since a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,312,528 to Hall et al (Hall) in view of US Pat No 3,969,845 to Yulkowski.

Hall fails to disclose that the pivot is a bead that engages a slotted tube on the fixing part. Hall discloses that the pivot is at the fixing part and is in the form of a pin that is accepted in a slotted tube that is on the profiled section.

Yulkowski teaches that it is well known in the art to provide a pivoting section that

comprises a bead (7) inserted in a slotted tube part (11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pivot at the profiled section and the slotted tube at the fixing part, since the reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration within the skill of the art.

Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a bead instead of a pin, as taught by Yulkowski, since a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art.

Response to Arguments

10. As to the arguments with respect of adding the bolt limitation into claim 1, the arguments are not persuasive.

The invention is drawn to bar assembly fixed to a door. This assembly has a "bolt operating member". However, the claim fails to provide any bolt in order to perform the "bolt operation" function. Further, without the bolt, then the assembly will not do anything with respect to the door.

The claim will just requires a panic bar mounted to the door, as an ornament. The invention is a panic bar assembly that will move to a working position in order to unlatch a door.

Therefore, the incorporation of claim 25 into claims 1 and 34 is indeed required.

With respect to the rejection to claim 4, the rejection is maintained (see above).

With respect to the rejection of the claims in view of Hoffman, the rejection is withdrawn in view of the new amendment. However, a new rejection has been made on the record in view of Campbell.

Also, after further review and a new interpretation, the rejection in view of Hall have been reinstated. Therefore, prosecution has been reopened (non final rejection).

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARLOS LUGO whose telephone number is (571)272-7058 (**interviews or questions by phone only**). The examiner can normally be reached on 10-7pm EST.

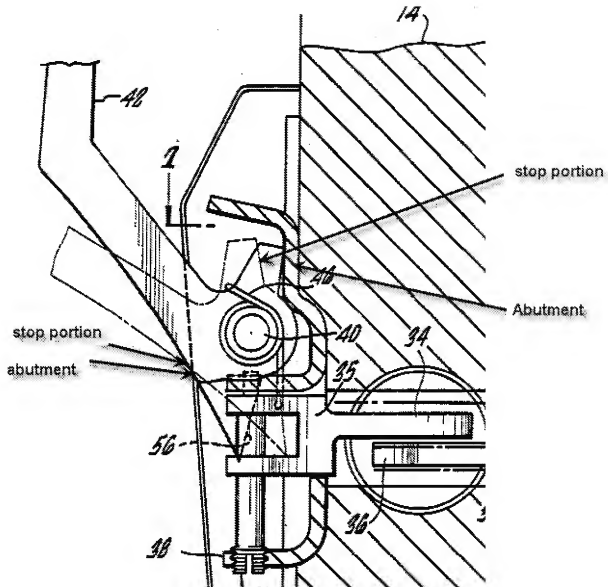
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos Lugo/
Primary Examiner
Art Unit 3673

March 11, 2011



attachment #1

